IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 3654 of 2007
Date of Decision: 27.07.07

Kuldip Singh ....Petitioner

Versus

Harpal Singh & another ....Respondents

Before: Hon'ble Mr. Justice R.S. Madan

Present: Mr. R.S. Athwal, Advocate for the appellants.

R.S. Madan (J)

This revision is directed against the order dated 13.06.2007 passed by Civil Judge (Junior Division), Nawanshahar vide which the application for amendment of the plaint filed by the plaintiff was dismissed.

A suit for permanent injunction was filed by the plaintiff to the effect that the defendants may be permanently restrained from interfering and dispossessing in any manner and from demolishing/damaging the property as shown red in the site plan attached with the plaint and further from closing the windows, doors, ventilators and water spouts existing in the suit property forcibly and illegally.

It is the case of the petitioner that on 17.01.2007 while disposing of the application for injunction vide which the defendant was restrained from disposing the plaintiff from the suit property illegally and forcibly except in due course of law and it was also observed by the court that the defendants have a right to raise construction in any manner over

their property. Now if any construction has been raised by the defendants over their own property, the same cannot be considered as illegal.

On the basis of the aforesaid averment, an application under Order 6 Rule 17 for amendment of the plaint was moved by the plaintiff wherein he wants to claim the relief of mandatory injunction directing the defendants to restore the property in its original condition by demolishing the wall AB and BC.

The said application was contested and after hearing the learned counsel for the parties, the Court observed that at the time of disposing of the application the defendants were allowed to raise any kind of construction over their own property and the same cannot be considered as illegal. Therefore, the prayer for amendment of the plaint for the decree of mandatory injunction was rejected by the Civil Judge (Jr. Division), Nawanshahr.

Learned counsel for the petitioner was unable to convince this Court how and under what circumstances the amendment sought in the plaint for mandatory injunction could be granted when the Court itself has allowed the defendants to raise construction over their own property while disposing of the application on merits.

No grounds to interfere. Dismissed.

(R.S. Madan)
Judge

27.07.07
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